

1 Neil A. Goteiner (State Bar No. 083524)  
ngoteiner@fbm.com  
2 C. Brandon Wisoff (State Bar No. 121930)  
bwisoff@fbm.com  
3 Karen P. Kimmey (State Bar No. 173284)  
kkimmey@fbm.com  
4 Christoffer Lee (State Bar. No. 280360)  
clee@fbm.com  
5 Farella Braun + Martel LLP  
235 Montgomery Street, 17th Floor  
6 San Francisco, CA 94104  
Telephone: (415) 954-4400  
7 Facsimile: (415) 954-4480  
  
8 Attorneys for Defendants Celera Corporation, Kathy  
Ordoñez, Richard H. Ayers, William G. Green, Peter  
9 Barton Hutt, Gail K. Naughton, Wayne I. Roe, and  
Bennett M. Shapiro  
10  
11  
12  
13  
14  
15  
16

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

17 BIOTECHNOLOGY VALUE FUND,  
L.P.; BIOTECHNOLOGY VALUE  
18 FUND II, L.P.; INVESTMENT 10, L.L.C.;  
BVF INVESTMENTS, L.L.C.; BVF INC.;  
19 and BVF X, LLC,

20 Plaintiffs,

21 vs.

22 CELERA CORPORATION; CREDIT  
SUISSE SECURITIES (USA) LLC;  
23 KATHY ORDOÑEZ; RICHARD H.  
AYERS; WILLIAM G. GREEN; PETER  
24 BARTON HUTT; GAIL K. NAUGHTON;  
WAYNE I. ROE; and BENNETT M.  
SHAPIRO,

25 Defendants.

Case No. CV-13-3248-WHA-DMR

**STIPULATION AND ~~PROPOSED~~  
ORDER SHORTENING TIME ON  
DEFENDANTS' MOTION TO EXCLUDE  
THE OPINIONS OF PLAINTIFFS'  
DAMAGES EXPERT ADAM WERNER**

26 In accordance with Civil Local Rules 6-1 and 6-2, the parties – consisting of Plaintiffs  
27 Biotechnology Value Fund, L.P., Biotechnology Value Fund II, L.P., Investment 10, L.L.C.,  
28

1 BVF Investments, L.L.C., BVF Inc., and BVF X, LLC (collectively, “Plaintiffs”) and Defendants  
 2 Celera Corporation, Kathy Ordoñez, Richard H. Ayers, William G. Green, Peter Barton Hutt,  
 3 Gail K. Naughton, Wayne I. Roe, and Bennett M. Shapiro (collectively, “Defendants”) –  
 4 respectfully submit this Stipulation, with the accompanying Proposed Order, allowing  
 5 Defendants’ Motion to Exclude the Opinions of Plaintiffs’ Damages Expert Adam Werner (the  
 6 “Motion”) to be heard on 34 day’s notice – i.e. January 15, 2015 (as if the Motion had been filed  
 7 and noticed yesterday).

8 **WHEREAS:**

9 1. On December 11, 2014, a storm deluged San Francisco and knocked out power to  
 10 much of downtown San Francisco, including the Russ Building at 235 Montgomery Street. The  
 11 offices of Defendants’ Counsel, Farella Braun + Martel LLP (“Farella”), were without power for  
 12 much of the business day and employees were not allowed to enter the building while it was  
 13 without power.

14 2. Counsel for Defendants intended to file the Motion on December 11, 2014, but we  
 15 could not access and generate our documents for filing as the power outage shut down Farella’s  
 16 computer and email systems. Counsel for Defendants also received an email message from Clerk  
 17 of the Court Richard Wieking notifying us that the San Francisco division of the U.S. District  
 18 Court for the Northern District of California also closed due to a major power outage.

19 3. On December 12, 2014, Christoffer Lee, counsel for Defendants, contacted Marc  
 20 Pilotin, counsel for Plaintiffs, and requested a stipulation to have the Motion heard on shortened  
 21 time – 34 days’ notice instead of 35 – provided that shortening time would not prejudice Plaintiffs  
 22 or the Court. (*See* Lee Decl. ¶ 3.) Accordingly, Defendants agree to reduce by one day the time  
 23 in which to reply to Plaintiffs’ anticipated opposition to the Motion. By taking one day out of  
 24 Defendants’ reply time, both Plaintiffs and the Court would have the same amount of time to  
 25 review as if the Motion were filed yesterday.

26 4. The parties, therefore, jointly request that the Motion be heard at the Court’s civil  
 27 law and motion calendar on **Thursday, January 15, 2015 at 8:00 A.M.** The parties stipulate that  
 28 Plaintiffs’ opposition would be due on December 26, 2014, and that Defendants’ reply would be

1 served and filed on January 1, 2015. As January 1, 2015 is a Court holiday, it would be deemed  
2 filed on January 2, 2015.

3 5. The parties do not anticipate that this requested modification will have an effect on  
4 the schedule as this modification would not interfere with the final pretrial conference, which is  
5 set for February 4, 2015.

6 6. All other previous time modifications in the case, whether by stipulation or  
7 proposed order, are reflected in the Court's November 1, 2013 First Order (Docket No. 59),  
8 August 12, 2014 Second Order (Docket No. 158), and Orders granting and denying requests by  
9 the parties to extend briefing with respect to the Fall 2013 motion to dismiss. (*See* Docket Nos.  
10 31, 55, 58, and 67.) Additionally, on November 18, 2014, pursuant to the stipulation of the  
11 parties, the Court permitted Defendants' motion for summary judgment to be heard on January 8,  
12 2015 in light of the interaction between the Court's scheduling orders and the Court's closure on  
13 December 25, 2014 and January 1, 2015. (*See* Stipulation and Order Modifying Hearing Date for  
14 Summary Judgment (Docket No. 195).)

15 7. A settlement conference is set for January 6, 2015 before Magistrate Judge Ryu.  
16 (*See* Docket No. 218.)

17 8. Accordingly, the parties hereby stipulate, subject to the Court's approval, that  
18 Defendants may set their hearing on the Motion to Exclude the Opinions of Plaintiffs' Damages  
19 Expert Adam Werner on **January 15, 2015 at 8:00 A.M.**, with Plaintiffs' opposition due  
20 December 26, 2014 and Defendants' reply due January 1, 2015.

21  
22 **ATTESTATION:** Pursuant to General Order 45, Part X-B, the filer attests that concurrence in  
23 the filing of this document has been obtained from each of the signatories.

1 Dated: December 12, 2014

2  
3 By: /s/ C. Brandon Wisoff  
C. Brandon Wisoff

4 FARELLA BRAUN + MARTEL LLP

5 Attorneys for Defendants Celera  
6 Corporation, Kathy Ordoñez, Richard H.  
7 Ayers, William G. Green, Peter Barton  
Hutt, Gail K. Naughton, Wayne I. Roe, and  
Bennett M. Shapiro

8 Dated: December 12, 2014

9  
10 By: Marc A. Pilotin  
Marc A. Pilotin

11 Richard M. Heimann (Cal. Bar No. 063607)  
12 Joy A. Kruse (Cal. Bar No. 142799)  
13 Bruce W. Leppla (Cal. Bar No. 071649)  
14 Marc A. Pilotin (Cal. Bar No. 266369)  
LIEFF, CABRASER, HEIMANN &  
BERNSTEIN, LLP  
275 Battery Street, 29th Floor  
San Francisco, CA 94111-3339  
Telephone: (415) 956-1000  
Facsimile: (415) 956-1008  
Email: rheimann@lchb.com  
jakruse@lchb.com  
bleppla@lchb.com  
mpilotin@lchb.com

19 Michael J. Miarmi (admitted pro hac vice)  
20 LIEFF, CABRASER, HEIMANN &  
BERNSTEIN, LLP  
250 Hudson Street, 8th Floor  
New York, NY 10013-1413  
Telephone: (212) 355-9500  
Facsimile: (212) 355-9592  
Email: mmiarmi@lchb.com  
Attorneys for Plaintiffs

24 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

25  
26 Dated: December 15, 2014.



William Alsup  
United States District Judge